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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/934,108	08/21/2001	Steven O. Markel	5771720001200	7663

43997 7590 08/10/2006  
OPTV/MOFO  
C/O MORRISON & FOERSTER LLP  
1650 TYSONS BOULEVARD, SUITE 300  
MCLEAN, VA 22102

EXAMINER
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BROWN, RUEBEN M

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 08/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Applicant(s)	
	09/934,108	
	MARKEL, ET AL	
Examiner	Art Unit	
Reuben M. Brown	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to the claims, filed 5/22/06 have been considered but are moot in view of the new ground(s) of rejection

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rogers, (US-PGPUB 2003/0088878 A1), in view of Rohlfing, (U.S. Pat # 6,034,739).

Considering claim 1, the claimed method of emulating the functions of a set-top box to display an enhanced video stream on a computer, such that the enhanced video stream includes a combination of video content and interactive content comprising;

‘generating a layout file that provides time based actions that are applied to the video content and interactive content’, reads on the disclosure of Rogers of combining broadcast video streams at least with graphic interactive hot spot items, see Fig. 3; Para 0059.

The PCTV of Rogers reads on the claimed system for emulating a set top box.

‘applying a set of rules to the layout file that produce instructions that emulate the functionality of a set-top box when applied to a browser and provides time based actions that are applied to the video and the interactive content’, reads on Rogers, Para 0059-0070.

As for the additionally claimed, ‘examining the interactive content to select a color that is not being used by the interactive content, assigning that color as a transparent color; locating the video content; applying the transparent color to the video content; and setting portions of the video content to be transparent’, Rogers does not discuss the details of how the interactive content is merged with the video stream. Nevertheless Rohlfing, which is more specifically directed to background merging with foreground, (col. 11, lines 31-38) teaches a method wherein the color of a matte is chosen (assigned) as the negative of a blue stage, i.e. a color that is not being used, see col. 7, lines 65-67 thru, col. 8, lines 1-65 & col. 9, lines 12-58. The claimed interactive content reads on the virtual environment items being merged with the video signal, col. 9, lines 20-34.

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It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Rogers with the feature of assigning a color as a matte (i.e., mask) which is not in use, at least for the advantage of making it easier to enable vide images to be combined with virtual, (i.e., interactive objects) as taught by Rohlfing, see col. 4, lines 45-67. The claimed feature of setting portions of the enhanced content that corresponds to the video content layout data to be transparent reads on Rohlfing.

Considering claim 2, the claimed feature of the 'random fashion', reads on the disclosure of Rohlfing in that video image may be accessed using pan, tilt or zoom which are well-known image processing features of Windows NT workstation, see col. 9, lines 58-64.

Considering claim 3, the claimed limitation reads on displaying the merged images, which corresponds with both Rogers & Rohlfing.

Considering claim 4, the claimed system for emulating the functions of a set-top box corresponds with subject matter mentioned above in the rejection of claim 1, and is likewise treated.

Considering claim 5, the claimed storage medium containing emulation code that emulates the functions of a set-top box that corresponds with subject matter mentioned above in the rejection of claim 1, is likewise treated. The claimed 'storage medium' reads on the memory in Rogers that stores the computer code that operates the invention.

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**Any response to this action should be mailed to:**

Commissioner for Patents  
P.O. Box 1450  
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**or faxed to:**

(571) 273-8300, (for formal communications intended for entry)

**Or:**

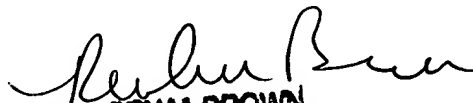
(571) 273-7290 (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F (9:00-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Reuben M. Brown

  
**REUBEN M. BROWN**  
**PATENT EXAMINER**